IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.8470 OF 2005

Gajendra M.Hirani ..Petitioner.

V/s.

Union of India & Anr. ..Respondents.

Mr.S.N. Kantawala i/b. Yogesh Rohira for petitioners.

Mr.Vinay Masurkar with Kiran Kandpile for respondents.

CORAM : Dr.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATED : 31TH JANUARY, 2006.

P.C. :-

1. Heard learned counsel for the petitioners and the respondents.

2. Rule, returnable forthwith.

3. Learned counsel for the respondents service.

4. Heard finally by consent of both the parties.

5. It appears that the respondents have conducted search and seizure on 19th November, 2005 at the office premises of the petitioner who claims to be a licensed gold jeweller. During the said search and seizure, the respondents had seized Rs.29,25,000/- in cash and also two fixed deposit receipts of Rs.2,00,000/- each.

6. Mr.Kantawala, learned counsel appearing on behalf of the petitioner contends that so far as the fixed deposits are concerned, they were invested as far back as in the year, 2002 and the bank has been regularly deducting T.D.S. with regard to the said F.D.R. on the accrued interest and they are accordingly disclosed in the Income-tax returns by the petitioner.

7. Mr.Masurkar, learned counsel appearing on behalf of the respondents on instructions from the Officer of the Income-tax department submits that they have no objection to return both the fixed deposit receipts. He also submits that so far as the seizure of the aforesaid sum of Rs.29,25,000/- is concerned the respondents have serious grounds to believe that the amount has been acquired due to Hawala transactions and that they have recorded statements of various persons and the investigation is in progress.

8. Mr.Masurkar submits that the respondents are ready and willing to deposit the said amount of Rs.29,25,000/- with the Registrar General of this Court so as to enable the Registrar General to invest the said amount in any nationalised bank.

9. Having regard to the facts and circumstances

of the case, we direct the respondents to return the Fixed Deposit receipts to the petitioner within a period of one week from today and also further direct them to deposit the said sum of Rs.29,25,000/- with the Registrar General of this Court within a period of one week from today, so as to enable the Registrar General to invest the same in fixed deposit with any nationalised bank initially for a period of 6 months and to renew the same thereafter from time to time.

10. Mr.Masurkar states that the respondents will expeditiously conduct the investigation and after the completion of the same, appropriate show cause notice would be issued to the petitioner.

11. Mr.Kantawala, learned counsel for the petitioner states that the petitioner will fully co-operate with the respondents in the said investigation.

12. In view of the above, petition stands disposed of accordingly. Rule is made absolute in the above terms with no order as to costs.

13. It is made clear that ultimately whichever party succeeds in the matter, will get back the amount with the accrued interest.

(Dr.S.RADHAKRISHNAN,J.)

(J. P. DEVADHAR, J.)